

**REMARKS**

I. STATUS OF THE CLAIMS

Claim 23 has been cancelled without prejudice or disclaimer. Claims 24, 33 and 34 have been amended to incorporate allowable subject matter indicated in the allowed claims. Accordingly, the amendments to claims 24, 33 and 34 do not raise new issues nor require further consideration. Furthermore, no new matter is presented.

Accordingly, claims 1, 3-9 and 24-34 are pending and under consideration. Entry and reconsideration are respectfully requested.

II. THE REJECTION OF CLAIMS 23, 24, 33 and 34 UNDER 35 U.S.C. §102(e) AS BEING ANTICIPATED BY ONAKA

Claims 23, 24, 33 and 34 stand rejected under 35 U.S.C. §102(e) as being anticipated by Onaka. These rejections are respectfully traversed and reconsideration is requested.

Claim 23 has been cancelled without prejudice or disclaimer. Accordingly, Applicants respectfully request that the rejection of claim 23 be withdrawn.

Claim 24, as amended, recites an optical amplifying method comprising amongst other novel processes "combining input light with probe light and outputting the combined light to optical amplifying means" and "**keeping an optical power of the combined light to be input to said optical amplifying means approximately constant.**"

Onaka discloses an optical amplifier including a control unit controlling the power of the probe light according to outputs from detectors (abstract). Therefore, only the input level (the power) of the probe light is controlled to remain constant.

As noted above, Onaka discloses an optical amplifier including a control unit controlling the power of the probe light according to outputs from detectors (abstract). Therefore, only the input level (the power) of the probe light is controlled to remain constant.

Accordingly, Applicants respectfully assert that the rejection of claim 24 under 35 U.S.C. §102(e) should be withdrawn because Onaka fails to teach or suggest each feature of independent claim 24, as amended.

Claim 33, as amended, recites an apparatus comprising amongst other novel elements,

"a detector detecting an optical power level of the combined light; and a controller **controlling a power level of the probe light** so that the power level of the combined light as received by the optical amplifier is maintained constant in accordance with changes in a number of optical signals in the WDM light."

As noted above, Onaka discloses an optical amplifier including a control unit controlling the power of the probe light according to outputs from detectors (abstract). Therefore, only the input level (the power) of the probe light is controlled to remain constant.

Accordingly, Applicants respectfully assert that the rejection of claim 33 under 35 U.S.C. §102(e) should be withdrawn because Onaka fails to teach or suggest each feature of independent claim 33, as amended.

Claim 34, as amended, recites an apparatus comprising amongst other novel element, "a detector detecting an optical power of the combined light; means for **controlling a power level of the probe light** so that the power level of the combined light as received by the optical amplifier is maintained constant in accordance with changes in a number of optical signals in the WDM light."

As noted above, Onaka discloses an optical amplifier including a control unit controlling the power of the probe light according to outputs from detectors (abstract). Therefore, only the input level (the power) of the probe light is controlled to remain constant.

Accordingly, Applicants respectfully assert that the rejection of claim 34 under 35 U.S.C. §102(e) should be withdrawn because Onaka fails to teach or suggest each feature of independent claim 34, as amended.

### III. CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is

requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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